

AMENDED IN SENATE AUGUST 23, 2004

AMENDED IN SENATE AUGUST 17, 2004

AMENDED IN SENATE JUNE 8, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2233

Introduced by Committee on Public Employees, Retirement and Social Security (Negrete McLeod (Chair), Levine (Vice Chair), Chan, Correa, and Kehoe)

February 18, 2004

An act to amend Sections 22134, 22134.5, 22135, 22171, 22650, 22651, 22661, 22663, 22705.5, 22714, 23203, 23300, 23812, 24114, 24203.6, 24204, 24209.3, 24211, 24212, 24213, 24214, ~~24221~~, 25000.9, 25100, 25107, 26004, 26140, 27400, 27401, 27406, and 44987 of, and to add Sections 22007.5 and 26002.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2233, as amended, Committee on Public Employees, Retirement and Social Security. State teachers' retirement.

(1) The Teachers' Retirement Law establishes the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would make technical changes to various provisions of that law.

(2) Existing law prescribes the rights and benefits of the spouse, surviving spouse, or former spouse of a member of the Defined Benefit Program, or a participant of the Cash Balance Benefit Program, of the State Teachers' Retirement Plan. Existing law, as of January 1, 2005,

grants registered domestic partners the same rights, benefits, and protections and subjects them to the same responsibilities, duties, and obligations as are granted to or imposed upon spouses.

This bill would specify that the provisions of the Teachers' Retirement Law applicable to a spouse, surviving spouse, or former spouse also apply to a registered domestic partner, surviving domestic partner, or former domestic partner, except as specified.

(3) The Teachers' Retirement Law requires a beneficiary designation by a member of the Defined Benefit Program to be witnessed by 2 witnesses.

This bill would eliminate that requirement.

(4) Existing law specifies the conditions that are required to be met for a service retirement allowance to become effective under the *Defined Benefit Program of the State Teachers' Retirement System Plan*.

This bill would permit a member who files a retirement application to change or cancel that application as long as the form is received by the system no later than a specified date.

(5) Existing law establishes the service retirement allowance for a member of the *Defined Benefit Program of the State Teachers' Retirement Plan* who retires and reinstates or receives a disability allowance, as specified. A service retirement calculated under those provisions excludes certain types of service credit.

This bill would additionally exclude the purchase of redeposits of contributions pursuant to specified provisions.

~~(6) Existing law authorizes members of the Defined Benefit Program of the State Teachers' Retirement Plan who retire prior to January 1, 2011, at a specified age or at a specified age with 30 years of service, to elect to receive a specified lump-sum payment upon retirement and an actuarially reduced monthly allowance.~~

~~This bill would authorize any member who retires prior to that date to make that election. The bill would also specify the method to be used by the Teachers' Retirement Board to calculate the member's actuarially reduced monthly allowance, that results in no net actuarial impact to the program.~~

~~(7) Existing law governing the State Teachers' Retirement System requires the Teachers' Retirement Board to establish a vendor registration process by which information about tax deferred investment products is made available to employees.~~

This bill would revise those provisions to specify, among other things, that the term “broker-dealer” as used in those provisions means broker-dealers who offer a proprietary 403(b) product, as defined, or who charge fees that are otherwise not disclosed.

~~(8)~~

(7) Existing law requires the governing board of a school district to grant an employee a leave of absence to enable the employee to serve as an elected officer of an employee organization.

This bill would make technical changes to that provision.

~~(9)~~

(8) This bill would declare that any act that amends or repeals any of the sections amended by this act shall prevail over this act.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22007.5 is added to the Education Code,
2 to read:

3 22007.5. Except as excluded by Sections 22661 and 23812,
4 any reference to a “spouse” in this part includes a person who is
5 the registered domestic partner of a member, as established
6 pursuant to Section 297 or 299.2 of the Family Code.

7 SEC. 2. Section 22134 of the Education Code is amended to
8 read:

9 22134. (a) “Final compensation” means the highest average
10 annual compensation earnable by a member during any period of
11 three consecutive school years while an active member of the
12 Defined Benefit Program or time during which he or she was not
13 a member but for which the member has received credit under the
14 Defined Benefit Program, except time that was so credited for
15 service performed outside this state prior to July 1, 1944. The last
16 three consecutive years of employment shall be used by the system
17 in determining final compensation unless designated to the
18 contrary in writing by the member.

19 (b) For purposes of this section, periods of service separated by
20 breaks in service may be aggregated to constitute a period of three
21 consecutive years, if the periods of service are consecutive except
22 for the breaks.



1 (c) The determination of final compensation of a member who
2 has concurrent membership in another retirement system pursuant
3 to Section 22115.2 shall take into consideration the compensation
4 earnable while a member of the other system, provided that all of
5 the following exist:

6 (1) The member was in state service or in the employment of
7 a local school district or a county superintendent of schools.

8 (2) Service under the other system was not performed during
9 the same pay period with service under the Defined Benefit
10 Program.

11 (3) Retirement under the Defined Benefit Program is
12 concurrent with the member's retirement under the other system.

13 (d) The compensation earnable for the first position in which
14 California service was credited shall be used when additional
15 compensation earnable is required to accumulate three
16 consecutive years for the purpose of determining final
17 compensation under Section 23805.

18 (e) If a member has received service credit for part-time service
19 performed prior to July 1, 1956, the member's final compensation
20 shall be adjusted for that service in excess of one year by the ratio
21 that part-time service bears to full-time service.

22 (f) The board may specify a different final compensation with
23 respect to disability allowances, disability retirement allowances,
24 family allowances, and children's portions of survivor benefit
25 allowances payable on and after January 1, 1978. The
26 compensation earnable for periods of part-time service shall be
27 adjusted by the ratio that part-time service bears to full-time
28 service.

29 (g) The amendment of former Section 22127 made by Chapter
30 782 of the Statutes of 1982 does not constitute a change in, but is
31 declaratory of, the existing law.

32 SEC. 3. Section 22134.5 of the Education Code is amended
33 to read:

34 22134.5. (a) Notwithstanding Section 22134, "final
35 compensation" means the highest average annual compensation
36 earnable by a member during any period of 12 consecutive months
37 while an active member of the Defined Benefit Program or time
38 during which he or she was not a member but for which the
39 member has received credit under the Defined Benefit Program,
40 except time that was so credited for service performed outside this

1 state prior to July 1, 1944. The last consecutive 12-month period
2 of employment shall be used by the system in determining final
3 compensation unless designated to the contrary in writing by the
4 member.

5 (b) For purposes of this section, periods of service separated by
6 breaks in service may be aggregated to constitute a period of 12
7 consecutive months, if the periods of service are consecutive
8 except for the breaks.

9 (c) The determination of final compensation of a member who
10 has concurrent membership in another retirement system pursuant
11 to Section 22115.2 shall take into consideration the compensation
12 earnable while a member of the other system, provided that all of
13 the following exist:

14 (1) The member was in state service or in the employment of
15 a local school district or a county superintendent of schools.

16 (2) Service under the other system was not performed during
17 the same pay period with service under the Defined Benefit
18 Program.

19 (3) Retirement under the Defined Benefit Program is
20 concurrent with the member's retirement under the other system.

21 (d) If a member has received service credit for part-time service
22 performed prior to July 1, 1956, the member's final compensation
23 shall be adjusted for that service in excess of one year by the ratio
24 that part-time service bears to full-time service.

25 (e) The board may specify a different final compensation with
26 respect to disability allowances, disability retirement allowances,
27 family allowances, and children's portions of survivor benefit
28 allowances payable on and after January 1, 1978. The
29 compensation earnable for periods of part-time service shall be
30 adjusted by the ratio that part-time service bears to full-time
31 service.

32 (f) This section shall only apply to a member who has 25 or
33 more years of credited service, excluding service credited pursuant
34 to Section 22714, 22714.5, 22715, 22717, or 22826, but including
35 any credited service that a court has ordered be awarded to a
36 nonmember spouse pursuant to Section 22652. This section also
37 shall apply to a nonmember spouse, if the member had at least 25
38 years of credited service, excluding service credited pursuant to
39 Section 22714, 22714.5, 22715, 22717, or 22826, on the date the

1 parties separated, as established in the judgment or court order
2 pursuant to Section 22652.

3 SEC. 4. Section 22135 of the Education Code is amended to
4 read:

5 22135. (a) Notwithstanding subdivisions (a) and (b) of
6 Section 22134, “final compensation” means the highest average
7 annual compensation earnable by an active member who is a
8 classroom teacher who retires, becomes disabled, or dies, after
9 June 30, 1990, during any period of 12 consecutive months during
10 his or her membership in the plan’s Defined Benefit Program. The
11 last 12 consecutive months of employment shall be used by the
12 system in determining final compensation unless designated to the
13 contrary in writing by the member.

14 (b) Section 22134, except subdivision (a) of that section, shall
15 apply to classroom teachers who retire after June 30, 1990, and any
16 statutory reference to Section 22134 or “final compensation” with
17 respect to a classroom teacher who retires, becomes disabled, or
18 dies, after June 30, 1990, shall be deemed to be a reference to this
19 section.

20 (c) As used in this section, “classroom teacher” means any of
21 the following:

22 (1) All teachers and substitute teachers in positions requiring
23 certification qualifications who spend, during the last 10 years of
24 their employment with the same employer which immediately
25 precedes their retirement, 60 percent or more of their contract time
26 each year providing direct instruction. For the purpose of
27 determining continuity of employment within the meaning of this
28 subdivision, an authorized leave of absence for sabbatical or
29 illness or other collectively bargained or employer-approved
30 leaves shall not constitute a break in service.

31 (2) Other certificated personnel who spend, during the last 10
32 years of their employment with the same employer that
33 immediately precedes their retirement, 60 percent or more of their
34 contract time each year providing direct services to pupils,
35 including, but not limited to, librarians, counselors, nurses, speech
36 therapists, resource specialists, audiologists, audiometrists,
37 hygienists, optometrists, psychologists, driver safety instructors,
38 and personnel on special assignment to perform school attendance
39 and adjustment services.

(d) As used in this section, “classroom teacher” does not include any of the following:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in allowances provided by this section and related administrative costs; and a mechanism for disposition of the employee’s contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of increases in allowances, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund the amount determined by the Teachers’ Retirement Board to be the actuarial equivalent of the difference between the allowance the member or

1 beneficiary receives pursuant to this section and the allowance the
2 member or beneficiary would have received if the member's final
3 compensation had been computed under Section 22134 and the
4 proportionate share of the cost to the plan's Defined Benefit
5 Program, as determined by the Teachers' Retirement Board, of
6 administering this section. The payment shall include the cost of
7 all increases in allowances provided for by this section for all years
8 of service credited to the member as of the benefit effective date.
9 Interest shall be charged at the regular interest rate for any payment
10 not received within 30 days of receipt of the invoice. Payments not
11 received within 30 days after receipt of the invoice may be
12 collected pursuant to Section 23007.

13 (g) Upon the execution of the agreement, the employer shall
14 notify all certificated employees of the agreement and any
15 certificated employee of the employer, who is a member of the
16 Public Employees' Retirement System pursuant to Section 22508,
17 that he or she may, within 60 days following the date of
18 notification, elect to terminate his or her membership in the Public
19 Employees' Retirement System and become a member of this
20 plan's Defined Benefit Program. However, only service credited
21 under the Defined Benefit Program subsequent to the date of that
22 election shall be subject to this section.

23 (h) An employer that agrees to become subject to this section,
24 shall, on a form and within the timeframes prescribed by the
25 system, certify the applicability of this section to a member
26 pursuant to the criteria set forth in this section when a retirement,
27 disability, or family allowance becomes payable.

28 (i) For a nonmember spouse, final compensation shall be
29 determined pursuant to paragraph (2) of subdivision (c) of Section
30 22664. The employer, within 30 days of receiving an invoice from
31 the system, shall reimburse the retirement fund pursuant to
32 subdivision (f). Interest shall be charged at the regular interest rate
33 for payments not received within the prescribed timeframe.
34 Payments not received within 30 days of invoicing may be
35 collected pursuant to Section 23007.

36 SEC. 5. Section 22171 of the Education Code is amended to
37 read:

38 22171. (a) "Spouse" means a person who was continuously
39 married to the member for the period beginning at least 12 months
40 prior to the death of the member, unless a child is born to the

1 member and his or her spouse within the 12-month period or unless
2 the spouse is carrying the member's unborn child.

3 (b) "Spouse" also means a person who was married to the
4 member for less than 12 months, if the member's death was either
5 accidental, or due to an illness, and the marriage took place prior
6 to the occurrence of the injury or diagnosis of the illness that
7 resulted in death.

8 (1) A member's death is defined as accidental only if he or she
9 received bodily injuries through violent, external, or accidental
10 means and died as a direct result of the bodily injuries and
11 independent of all other causes.

12 (2) This subdivision does not apply if, at the time of the
13 marriage, the member could not have reasonably been expected to
14 live for 12 months.

15 (c) Except as excluded by Sections 22661 and 23812,
16 "spouse" shall also include a person who is the registered
17 domestic partner of a member, as established pursuant to Section
18 297 or 299.2 of the Family Code.

19 SEC. 6. Section 22650 of the Education Code is amended to
20 read:

21 22650. (a) This chapter establishes the power of a court in a
22 dissolution of marriage or legal separation action with respect to
23 community property rights in accounts with the plan under this
24 part and establishes and defines the rights of nonmember spouses
25 and nonmember registered domestic partners in the plan under this
26 part.

27 (b) For purposes of this chapter, any reference to "dissolution
28 of marriage or legal separation" includes the termination or
29 dissolution of a domestic partnership, nullity of a domestic
30 partnership, or the legal separation of partners in a domestic
31 partnership, as provided in Section 299 of the Family Code.

32 SEC. 7. Section 22651 of the Education Code is amended to
33 read:

34 22651. (a) For purposes of this chapter and Section 23300,
35 "nonmember spouse" means a member's spouse or former
36 spouse, and also includes a member's registered domestic partner
37 or former registered domestic partner, who is being or has been
38 awarded a community property interest in the service credit,
39 accumulated retirement contributions, accumulated Defined

1 Benefit Supplement account balance, or benefits of the member
2 under this part.

3 (b) A nonmember spouse shall not be considered a member
4 based upon his or her receipt of any of the following being awarded
5 to the nonmember spouse as a result of legal separation or
6 dissolution of marriage: a separate account of service credit and
7 accumulated retirement contributions, a retirement allowance, or
8 an interest in the member's retirement allowance under the
9 Defined Benefit Program; or a separate account based on the
10 member's Defined Benefit Supplement account balance, a
11 retirement benefit, or an interest in the member's retirement
12 benefit under the Defined Benefit Supplement Program.

13 SEC. 8. Section 22661 of the Education Code is amended to
14 read:

15 22661. (a) The nonmember spouse who is awarded a separate
16 account under this part shall have the right to a refund of the
17 accumulated retirement contributions in the account under the
18 Defined Benefit Program, and a return of the Defined Benefit
19 Supplement account balance, of the nonmember spouse under this
20 part.

21 (b) The nonmember spouse shall file an application on a form
22 provided by the system to obtain a refund or lump-sum payment.

23 (c) The refund of accumulated retirement contributions and the
24 return of the accumulated Defined Benefit Supplement account
25 balance under this part are effective when the system deposits in
26 the United States mail an initial warrant drawn in favor of the
27 nonmember spouse and addressed to the latest address for the
28 nonmember spouse on file with the system.

29 (d) If the nonmember spouse has elected on a form provided by
30 the system to transfer all or a specified portion of the accumulated
31 retirement contributions or accumulated Defined Benefit
32 Supplement account balance that are eligible for direct
33 trustee-to-trustee transfer to the trustee of a qualified plan under
34 Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A.
35 Sec. 402), deposit in the United States mail of a notice that the
36 requested transfer has been made constitutes a refund of the
37 nonmember spouse's accumulated retirement contributions or
38 accumulated Defined Benefit Supplement account balance. This
39 subdivision shall not apply to a nonmember domestic partner,
40 consistent with Section 402 of the Internal Revenue Code.



1 (e) The nonmember spouse is deemed to have permanently
2 waived all rights and benefits pertaining to the service credit,
3 accumulated retirement contributions, and accumulated Defined
4 Benefit Supplement account balance under this part when the
5 refund and lump-sum payment become effective.

6 (f) The nonmember spouse may not cancel a refund or
7 lump-sum payment under this part after it is effective.

8 (g) The nonmember spouse shall not have a right to elect to
9 redeposit the refunded accumulated retirement contributions
10 under this part after the refund is effective, to redeposit under
11 Section 22662 or purchase additional service credit under Section
12 22663 after the refund becomes effective, or to redeposit the
13 accumulated Defined Benefit Supplement account balance after
14 the lump-sum payment becomes effective.

15 (h) If the total service credit in the separate account of the
16 nonmember spouse under the Defined Benefit Program, including
17 service credit purchased under Sections 22662 and 22663, is less
18 than two and one-half years, the board shall refund the
19 accumulated retirement contributions in the account.

20 SEC. 9. Section 22663 of the Education Code is amended to
21 read:

22 22663. The nonmember spouse who is awarded a separate
23 account under this part has the right to purchase additional service
24 credit in accordance with the determination of the court pursuant
25 to Section 22652.

26 (a) The nonmember spouse may purchase only the service
27 credit that the court, pursuant to Section 22652, has determined to
28 be the community property interest of the nonmember spouse.

29 (b) The nonmember spouse shall inform the system in writing
30 of his or her intent to purchase additional service credit within 180
31 days after the date the judgment or court order addressing the right
32 of the nonmember spouse to purchase additional service credit is
33 entered. The nonmember spouse shall elect to purchase additional
34 service credit on a form provided by the system within 30 days
35 after the system mails an election form and billing.

36 (c) If the nonmember spouse elects to purchase additional
37 service credit, he or she shall pay, prior to retirement under this
38 part, all contributions with respect to the additional service at the
39 contribution rate for additional service credit in effect at the time

1 of election and regular interest from July 1 of the year following
2 the year upon which contributions are based.

3 (1) (A) The nonmember spouse shall purchase additional
4 service credit by paying the required contributions and interest in
5 one lump sum, or in not more than 120 monthly installments,
6 provided that no installment, except the final installment, is less
7 than twenty-five dollars (\$25). Regular interest shall be charged on
8 the monthly, unpaid balance if the nonmember spouse pays in
9 installments.

10 (B) If any payment due, because of the election, is not received
11 at the system's office in Sacramento within 120 days of its due
12 date, the election shall be canceled and any payments made under
13 the election shall be returned to the nonmember spouse.

14 (2) The contributions shall be based on the member's
15 compensation earnable in the most recent school year during
16 which the member was employed, preceding the date of separation
17 established by the court pursuant to Section 22652.

18 (3) All payments of contributions and interest shall be received
19 by the system before the effective date of the retirement of the
20 nonmember spouse.

21 (d) The nonmember spouse does not have a right to purchase
22 additional service credit under this part after the effective date of
23 a refund of the accumulated retirement contributions in the
24 separate account of the nonmember spouse.

25 (e) The member does not have a right to purchase the
26 community property interest of the nonmember spouse of
27 additional service credit under this part whether or not the
28 nonmember spouse elects to purchase the additional service credit.
29 However, any additional service credit eligible for purchase that
30 is not explicitly awarded to the nonmember spouse by the
31 judgment or court order shall be deemed the exclusive property of
32 the member.

33 SEC. 10. Section 22705.5 of the Education Code is amended
34 to read:

35 22705.5. Service subject to coverage by the San Francisco
36 City and County Employees' Retirement System pursuant to
37 Section 24701 is excluded from coverage in the Defined Benefit
38 Program. The member shall retain the right to receive a retirement
39 allowance for creditable service that is subject to coverage under

1 the Defined Benefit Program unless he or she withdraws his or her
2 accumulated retirement contributions for that service.

3 SEC. 11. Section 22714 of the Education Code is amended to
4 read:

5 22714. (a) Whenever the governing board of a school district
6 or a community college district or a county office of education, by
7 formal action, determines pursuant to Section 44929 or 87488 that
8 because of impending curtailment of or changes in the manner of
9 performing services, the best interests of the district or county
10 office of education would be served by encouraging certificated
11 employees or academic employees to retire for service and that the
12 retirement will result in a net savings to the district or county office
13 of education, an additional two years of service credit shall be
14 granted under this part to a member of the Defined Benefit
15 Program if all of the following conditions exist:

16 (1) The member is credited with five or more years of service
17 credit and retires for service under Chapter 27 (commencing with
18 Section 24201) during a period of not more than 120 days or less
19 than 60 days, commencing no sooner than the effective date of the
20 formal action of the employer that shall specify the period.

21 (2) The employer transfers to the retirement fund an amount
22 determined by the Teachers' Retirement Board to equal the
23 actuarial equivalent of the difference between the allowance the
24 member receives after receipt of service credit pursuant to this
25 section and the amount the member would have received without
26 the service credit and an amount determined by the Teachers'
27 Retirement Board to equal the actuarial equivalent of the
28 difference between the purchasing power protection supplemental
29 payment the member receives after receipt of service credit
30 pursuant to this section and the amount the member would have
31 received without the service credit. The payment for purchasing
32 power shall be deposited in the Supplemental Benefit Maintenance
33 Account established by Section 22400 and shall be subject to
34 Section 24415. The transfer to the retirement fund shall be made
35 in a manner and a time period, not to exceed eight years, that is
36 acceptable to the Teachers' Retirement Board. The employer shall
37 transfer the required amount for all eligible employees who retire
38 pursuant to this section.

1 (3) The employer transmits to the retirement fund the
2 administrative costs incurred by the system in implementing this
3 section, as determined by the Teachers' Retirement Board.

4 (4) The employer has considered the availability of teachers or
5 academic employees to fill the positions that would be vacated
6 pursuant to this section.

7 (b) (1) The school district shall demonstrate and certify to the
8 county superintendent that the formal action taken would result in
9 a net savings to the district.

10 (2) The county superintendent shall certify to the Teachers'
11 Retirement Board that the result specified in paragraph (1) can be
12 demonstrated. The certification shall include, but not be limited to,
13 the information specified in subdivision (b) of Section 14502.

14 (3) The school district shall reimburse the county
15 superintendent for all costs to the county superintendent that result
16 from the certification.

17 (c) (1) The county office of education shall demonstrate and
18 certify to the Superintendent of Public Instruction that the formal
19 action taken would result in a net savings to the county office of
20 education.

21 (2) The Superintendent of Public Instruction shall certify to the
22 Teachers' Retirement Board that the result specified in paragraph
23 (1) can be demonstrated. The certification shall include, but not be
24 limited to, the information specified in subdivision (b) of Section
25 14502.

26 (3) The Superintendent of Public Instruction may request
27 reimbursement from the county office of education for all
28 administrative costs that result from the certification.

29 (d) (1) The community college district shall demonstrate and
30 certify to the chancellor's office that the formal action taken would
31 result in a net savings to the district.

32 (2) The chancellor shall certify to the Teachers' Retirement
33 Board that the result specified in paragraph (1) can be
34 demonstrated. The certification shall include, but not be limited to,
35 the information specified in subdivision (c) of Section 84040.5.

36 (3) The chancellor may request reimbursement from the
37 community college district for all administrative costs that result
38 from the certification.

39 (e) The opportunity to be granted service credit pursuant to this
40 section shall be available to all members employed by the school

1 district, community college district, or county office of education
2 who meet the conditions set forth in this section.

3 (f) The amount of service credit shall be two years.

4 (g) Any member of the Defined Benefit Program who retires
5 under this part for service under Chapter 27 (commencing with
6 Section 24201) with service credit granted under this section and
7 who subsequently reinstates shall forfeit the service credit granted
8 under this section.

9 (h) Any member of the Defined Benefit Program who retires
10 under this part for service under Chapter 27 (commencing with
11 Section 24201) with service credit granted under this section and
12 who takes any job with any school district in the state less than one
13 year after receiving the credit shall forfeit the ongoing benefit he
14 or she receives from the additional service credit granted under this
15 section.

16 (i) Any member of the Defined Benefit Program who retires
17 under this part for service under Chapter 27 (commencing with
18 Section 24201) with service credit granted under this section and
19 who takes any job with the school district that granted the member
20 the service credit less than five years after receiving the credit shall
21 forfeit the ongoing benefit he or she receives from the additional
22 service credit granted under this section.

23 (j) This section does not apply to any member otherwise
24 eligible if the member receives any unemployment insurance
25 payments arising out of employment with an employer subject to
26 this part during a period extending one year beyond the effective
27 date of the formal action, or if the member is not otherwise eligible
28 to retire for service.

29 SEC. 12. Section 23203 of the Education Code is amended to
30 read:

31 23203. (a) A member who elects to redeposit refunded
32 accumulated retirement contributions shall pay, prior to
33 retirement, all contributions and interest as determined under
34 Section 23200.

35 (b) If the system is unable to inform the member or beneficiary
36 of the amount required to redeposit the refunded accumulated
37 retirement contributions prior to the effective date of the
38 applicable allowance, the member or beneficiary may make the
39 required payment within 30 working days after the date of mailing
40 of the statement of contributions and interest required or the

1 effective date of the appropriate allowance, whichever is later. The
2 payment shall be paid in full before a member or beneficiary
3 receives any adjustment in the appropriate allowance due because
4 of that payment.

5 (c) Redeposit of refunded accumulated retirement
6 contributions shall be made in one sum, or in not more than 120
7 monthly installments, not to exceed ten years, provided that no
8 installment, except the final installment, is less than twenty-five
9 dollars (\$25).

10 SEC. 13. Section 23300 of the Education Code is amended to
11 read:

12 23300. (a) A member of the Defined Benefit Program may
13 designate a beneficiary to receive benefits payable under this part
14 upon the member's death. A beneficiary designation may not be
15 made in derogation of a community property interest of a
16 nonmember spouse, as defined by Section 25000.9, with respect
17 to service or contributions credited under this part, unless the
18 nonmember spouse has previously obtained an alternative order
19 pursuant to Section 2610 of the Family Code.

20 (b) A member's beneficiary designation for benefits payable
21 under the Defined Benefit Program, including a designation made
22 pursuant to Section 24300, shall also apply to benefits payable
23 under the Defined Benefit Supplement Program. A beneficiary
24 designation shall be in writing on a form prescribed by the system
25 and executed by the member.

26 (c) A beneficiary designation may not be valid unless it is
27 received in the office of the system in Sacramento prior to the
28 member's death.

29 (d) A member may change or revoke a beneficiary designation
30 at any time by making a new designation pursuant to this section.

31 (e) This section is not applicable to the designation of an option
32 beneficiary or an annuity beneficiary under this part.

33 (f) An option beneficiary may designate a death beneficiary
34 who would, upon the death of the option beneficiary, be entitled
35 to receive the option beneficiary's accrued monthly allowance.

36 SEC. 14. Section 23812 of the Education Code is amended to
37 read:

38 23812. (a) The surviving spouse of a deceased member who
39 previously lost entitlement to benefits prescribed by this part due
40 to remarriage shall be entitled to resume payment of the benefits

1 effective either on January 1, 2000, or the first day of the month
2 following receipt by the board of a written application for
3 resumption of benefits, whichever date is later. The amount of the
4 benefits payable shall be calculated as though the benefits had been
5 paid without interruption from the date of remarriage through the
6 benefits resumption effective date.

7 (b) The board shall be under no requirement to identify, locate,
8 or notify a remarried spouse of a deceased member who previously
9 lost entitlement as a result of remarriage about the resumption of
10 benefits provided in this section. The board shall be under no
11 requirement to provide the name or address or any other
12 information concerning any remarried spouse of a deceased
13 member to any person, agency, or entity for the purpose of
14 notifying those who may be eligible for the resumption of benefits
15 under this section.

16 (c) Nothing in this section shall be construed to imply or
17 interpreted to mean that the benefits addressed shall be required to
18 be paid retroactively.

19 (d) This section does not apply to the surviving domestic
20 partner of a member.

21 SEC. 15. Section 24114 of the Education Code is amended to
22 read:

23 24114. (a) A member receiving a disability retirement
24 benefit under this part may be employed or self-employed in any
25 capacity, notwithstanding Section 22132, but may not make
26 contributions to the retirement fund with respect to the Defined
27 Benefit Program or accrue service credit under this part based on
28 earnings from any employment.

29 (b) A member receiving a disability retirement benefit under
30 this part may earn in any one calendar year up to the limitation
31 specified in subdivision (c) without a reduction in his or her
32 disability retirement allowance.

33 (c) The limitation that shall apply to the earnings of a member
34 receiving a disability retirement benefit under this part shall be
35 fifteen thousand dollars (\$15,000), in any one calendar year,
36 adjusted annually by the board effective each January 1 by the
37 amount of increase in the All Urban California Consumer Price
38 Index using December 1989 as the base.

39 (d) If a member receiving a disability retirement benefit under
40 this part earns in excess of the limitation specified in subdivision

(c) from all employment in any calendar year, notwithstanding Section 22132, his or her retirement allowance shall be reduced by the amount of the excess earnings. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the calendar year in which the excess compensation was earned.

(e) The earnings limitation specified in this section does not apply to a member receiving a disability retirement benefit under this part who is participating in an approved rehabilitation program pursuant to Section 24111.

(f) This section does not apply to a member receiving a disability retirement benefit under this part who began receiving a disability retirement allowance prior to October 16, 1992.

SEC. 16. Section 24203.6 of the Education Code is amended to read:

24203.6. (a) In addition to the amount otherwise payable pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209, 24209.3, 24210, 24211, and 24212, a member who (1) retires for service on or after January 1, 2001, (2) has, prior to January 1, 2011, 30 or more years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, and (3) is receiving an allowance subject to Section 24203.5, shall receive a monthly increase in the allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in the following schedule for the number of years of the member's credited service at the time of retirement, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652:

| | |
|--|-------|
| 30 years of credited service | \$200 |
| 31 years of credited service | \$300 |
| 32 or more years of credited service | \$400 |

(b) This section also shall apply to a nonmember spouse, if the member is eligible for the allowance increase pursuant to

1 subdivision (a) upon his or her retirement for service and had at
2 least 30 years of credited service, excluding service credited
3 pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and
4 22826, on the date the parties separated, as established in the
5 judgment or court order pursuant to Section 22652 and the service
6 credit of the member was divided into separate accounts in the
7 name of the member and the nonmember spouse by a court
8 pursuant to Section 22652. The amount identified in the schedule
9 in subdivision (a) and payable pursuant to this section, that is based
10 on the service credited during the marriage, shall be divided and
11 paid to the member and the nonmember spouse proportionately
12 according to the respective percentages of the member's service
13 credit that were allocated to the member and the nonmember
14 spouse in the court's order.

15 (c) The allowance increase provided under this section shall
16 not be subject to Sections 24415 and 24417, but shall be subject
17 to Section 22140.

18 SEC. 17. Section 24204 of the Education Code is amended to
19 read:

20 24204. A service retirement allowance under this part shall
21 become effective upon any date designated by the member,
22 provided all of the following conditions are met:

23 (a) An application for service retirement allowance is filed on
24 a form provided by the system, that is executed no earlier than six
25 months before the effective date of retirement allowance.

26 (b) The effective date is later than the last day of creditable
27 service for which compensation is payable to the member.

28 (c) The effective date is no earlier than the first day of the
29 month in which the application is received at the system's office
30 in Sacramento.

31 (d) Either of the following conditions exists:

32 (1) The effective date is no earlier than one year following the
33 date on which the retirement allowance was terminated under
34 Section 24208, or subdivision (a) of Section 24117.

35 (2) The effective date is no earlier than the date upon and
36 continuously after which the member is determined to the
37 satisfaction of the board to have been mentally incompetent.

38 (e) A member who files an application prior to the effective
39 date of retirement may change or cancel his or her retirement
40 application, as long as the form provided by the system is received

1 in the system's office in Sacramento no later than the last day of
2 the month in which the retirement date is effective.

3 SEC. 18. Section 24209.3 of the Education Code is amended
4 to read:

5 24209.3. (a) Notwithstanding subdivision (a) of Section
6 24209 and subdivision (d) of Section 24204, and exclusive of any
7 amounts payable during the prior retirement for service pursuant
8 to Section 22714, 22714.5, or 22715:

9 (1) A member who retired, other than pursuant to Section
10 24210, 24211, 24212, or 24213, and who reinstates and performs
11 creditable service, as defined in Section 22119.5, after the most
12 recent reinstatement, in an amount equal to two or more years of
13 credited service, shall, upon retirement for service on or after the
14 effective date of this section, receive a service retirement
15 allowance equal to the sum of the following:

16 (A) An amount calculated pursuant to this chapter based on
17 credited service performed prior to the most recent reinstatement,
18 using the member's age at the subsequent service retirement, from
19 which age shall be deducted the total time during which the
20 member was retired for service, and final compensation.

21 (B) An amount calculated pursuant to this chapter based on
22 credited service performed subsequent to the most recent
23 reinstatement, using the member's age at the subsequent service
24 retirement, and final compensation.

25 (2) A member who retired pursuant to Section 24210 and who
26 reinstates and performs creditable service, as defined in Section
27 22119.5, after the most recent reinstatement, in an amount equal
28 to two or more years of credited service, shall, upon retirement for
29 service on or after the effective date of this section, receive a
30 service retirement allowance equal to the sum of the following:

31 (A) An amount calculated pursuant to this chapter based on
32 service credit accrued prior to the effective date of the disability
33 retirement, using the member's age at the subsequent service
34 retirement, from which age shall be deducted the total time during
35 which the member was retired for service, and indexed final
36 compensation to the effective date of the initial service retirement.

37 (B) An amount calculated pursuant to this chapter based on the
38 service credit accrued after termination of the disability
39 retirement, using the member's age at the subsequent service

1 retirement, from which age shall be deducted the total time during
2 which the member was retired for service, and final compensation.

3 (C) An amount calculated pursuant to this chapter based on
4 credited service performed subsequent to the most recent
5 reinstatement, using the member's age at the subsequent service
6 retirement, and final compensation.

7 (3) A member who retired pursuant to Section 24211 and who
8 reinstates and performs creditable service, as defined in Section
9 22119.5, after the most recent reinstatement, in an amount equal
10 to two or more years of credited service, shall, upon retirement for
11 service on or after the effective date of this section, receive a
12 service retirement allowance equal to the sum of the following:

13 (A) The greater of (i) the disability allowance the member was
14 receiving immediately prior to termination of that allowance,
15 excluding the children's portion, or (ii) an amount calculated
16 pursuant to this chapter based on service credit accrued prior to the
17 effective date of the disability allowance, using the member's age
18 at the subsequent service retirement, from which age shall be
19 deducted the total time during which the member was retired for
20 service, and final compensation using compensation earnable or
21 projected final compensation or a combination of both.

22 (B) An amount equal to either of the following:

23 (i) For a member who was receiving a benefit pursuant to
24 subdivision (a) of Section 24211, the member's credited service at
25 the time of the retirement pursuant to Section 24211, excluding
26 service credited pursuant to Section 22717 or 22717.5 or Chapter
27 14 (commencing with Section 22800) or Chapter 14.2
28 (commencing with Section 22820) or Chapter 19 (commencing
29 with Section 23200).

30 (ii) For a member who was receiving a benefit pursuant to
31 subdivision (b) of Section 24211, the member's projected service,
32 excluding service credited pursuant to Section 22717 or 22717.5
33 or Chapter 14 (commencing with Section 22800) or Chapter 14.2
34 (commencing with Section 22820) or Chapter 19 (commencing
35 with Section 23200).

36 (C) An amount calculated pursuant to this chapter based on
37 credited service performed subsequent to the most recent
38 reinstatement, using the member's age at the subsequent service
39 retirement, and final compensation using compensation earnable
40 or projected final compensation or a combination of both.

1 (D) An amount based on any service credited pursuant to
2 Chapter 14 (commencing with Section 22800) or Chapter 14.2
3 (commencing with Section 22820) or Chapter 19 (commencing
4 with Section 23200) or, for credited service performed during the
5 most recent reinstatement, Section 22714, 22714.5, 22715, 22717,
6 or 22717.5, using the member's age at the subsequent service
7 retirement, from which age shall be deducted the total time during
8 which the member was retired for service, and final compensation
9 using compensation earnable, or projected final compensation, or
10 a combination of both.

11 (4) A member who retired pursuant to Section 24212 or 24213
12 and who reinstates and performs creditable service, as defined in
13 Section 22119.5, after the most recent reinstatement, in an amount
14 equal to two or more years of credited service, shall, upon
15 retirement for service on or after the effective date of this section,
16 receive a service retirement allowance equal to the sum of the
17 following:

18 (A) An amount calculated pursuant to this chapter based on the
19 member's projected service credit, excluding service credited
20 pursuant to Section 22717, 22717.5, or Chapter 14 (commencing
21 with Section 22800) or Chapter 14.2 (commencing with Section
22 22820) or Chapter 19 (commencing with Section 23200), using
23 the member's age at the subsequent service retirement, from which
24 age shall be deducted the total time during which the member was
25 retired for service, and final compensation using compensation
26 earnable or projected final compensation or a combination of both.

27 (B) An amount calculated pursuant to this chapter based on
28 credited service performed subsequent to the most recent
29 reinstatement, using the member's age at the subsequent service
30 retirement, and final compensation, using compensation earnable
31 or projected final compensation or a combination of both.

32 (C) An amount based on any service credited pursuant to
33 Chapter 14 (commencing with Section 22800) or Chapter 14.2
34 (commencing with Section 22820) or Chapter 19 (commencing
35 with Section 23200) or, for credited service performed during the
36 most recent reinstatement, Section 22714, 22714.5, 22715, 22717,
37 or 22717.5, using the member's age at the subsequent service
38 retirement, from which age shall be deducted the total time during
39 which the member was retired for service, and final compensation



1 using compensation earnable, or projected final compensation, or
2 a combination of both.

3 (b) If the total amount of credited service, other than that
4 accrued pursuant to Sections 22714, 22714.5, 22715, 22717,
5 22717.5, and 22826, is equal to or greater than the number of years
6 required to be eligible for an increased allowance pursuant to this
7 chapter or Section 22134.5, the amounts identified in this section
8 shall be calculated pursuant to the section authorizing the
9 increased benefit.

10 (c) For members receiving an allowance pursuant to Section
11 24410.5 or 24410.6, the amount payable pursuant to this section
12 shall not be less than the amount payable to the member as of the
13 effective date of reinstatement.

14 (d) The amount payable pursuant to this section shall not be less
15 than the amount that would be payable to the member pursuant to
16 Section 24209.

17 (e) For purposes of determining an allowance increase
18 pursuant to Sections 24415 and 24417, the calendar year of
19 retirement shall be the year of the subsequent retirement if the final
20 compensation used to calculate the allowance pursuant to this
21 section is higher than the final compensation used to calculate the
22 allowance for the prior retirement.

23 (f) The allowance paid pursuant to this section to a member
24 receiving a lump-sum payment pursuant to Section 24221 shall be
25 actuarially reduced to reflect that lump-sum payment.

26 SEC. 19. Section 24211 of the Education Code is amended to
27 read:

28 24211. When a member who has been granted a disability
29 allowance under this part after June 30, 1972, returns to
30 employment subject to coverage under the Defined Benefit
31 Program and performs:

32 (a) Less than three years of creditable service after termination
33 of the disability allowance, the member shall receive a retirement
34 allowance which is the sum of the allowance calculated on service
35 credit accrued after the termination date of the disability
36 allowance, the age of the member on the last day of the month in
37 which the retirement allowance begins to accrue, and final
38 compensation using compensation earnable and projected final
39 compensation, plus the greater of either of the following:

1 (1) A service retirement allowance calculated on service credit
2 accrued as of the effective date of the disability allowance, the age
3 of the member on the last day of the month in which the retirement
4 allowance begins to accrue, and projected final compensation
5 excluding service credited pursuant to Sections 22717 and
6 22717.5 or Chapter 14 (commencing with Section 22800) or
7 Chapter 14.2 (commencing with Section 22820) or Chapter 19
8 (commencing with Section 23200), to the termination date of the
9 disability allowance.

10 (2) The disability allowance the member was receiving
11 immediately prior to termination of that allowance, excluding
12 children's portions.

13 (b) Three or more years of creditable service after termination
14 of the disability allowance, the member shall receive a retirement
15 allowance that is the greater of the following:

16 (1) A service retirement allowance calculated on all actual and
17 projected service excluding service credited pursuant to Sections
18 22717 and 22717.5 or Chapter 14 (commencing with Section
19 22800) or Chapter 14.2 (commencing with Section 22820) or
20 Chapter 19 (commencing with Section 23200), the age of the
21 member on the last day of the month in which the retirement
22 allowance begins to accrue, and final compensation using
23 compensation earnable, or projected final compensation, or a
24 combination of both.

25 (2) The disability allowance the member was receiving
26 immediately prior to termination of that allowance, excluding
27 children's portions.

28 (c) The allowance shall be increased by an amount based on any
29 service credited pursuant to Sections 22714, 22714.5, 22715,
30 22717, and 22717.5 or Chapter 14 (commencing with Section
31 22800) or Chapter 14.2 (commencing with Section 22820) or
32 Chapter 19 (commencing with Section 23200), and final
33 compensation using compensation earnable, or projected final
34 compensation, or a combination of both.

35 (d) If the total amount of credited service, other than projected
36 service or service that accrued pursuant to Sections 22714,
37 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater
38 than 30 years, the amounts identified in subdivisions (a) and (b)
39 shall be calculated pursuant to Sections 24203.5 and 24203.6.



SEC. 20. Section 24212 of the Education Code is amended to read:

24212. (a) If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance excluding children's portions.

(b) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

SEC. 21. Section 24213 of the Education Code is amended to read:

24213. (a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820). The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance. The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22714.5, 22715, or 22717 or Chapter 14 (commencing with Section 22800)

1 or Chapter 14.2 (commencing with Section 22820) or Chapter 19
2 (commencing with Section 23200) and projected final
3 compensation to normal retirement age.

4 (b) Upon retirement, the member may elect to modify the
5 service retirement allowance payable in accordance with any
6 option provided under this part.

7 SEC. 22. Section 24214 of the Education Code, as amended
8 by Section 2 of Chapter 903 of the Statutes of 2002, is amended
9 to read:

10 24214. (a) A member retired for service under this part may
11 perform the activities identified in paragraphs (1) to (9), inclusive,
12 of subdivision (a), or subdivision (b), of Section 22119.5 as an
13 employee of an employer, as an employee of a third party, or as an
14 independent contractor within the California public school
15 system, but the member may not make contributions to the
16 retirement fund or accrue service credit based on compensation
17 earned from that service.

18 (b) The rate of pay for service performed by a member retired
19 for service under this part as an employee of the employer may not
20 be less than the minimum, nor exceed that paid by the employer
21 to other employees performing comparable duties.

22 (c) A member retired for service under this part may not be
23 required to reinstate for performing the activities identified in
24 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision
25 (b), of Section 22119.5, as an employee of an employer, as an
26 employee of a third party, or as an independent contractor within
27 the California public school system.

28 (d) A member retired for service under this part may earn
29 compensation for performing activities identified in paragraphs
30 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
31 Section 22119.5 in any one school year up to the limitation
32 specified in subdivision (f) as an employee of an employer, as an
33 employee of a third party, or an independent contractor, within the
34 California public school system, without a reduction in his or her
35 retirement allowance.

36 (e) (1) The postretirement compensation limitation provisions
37 set forth in this section are not applicable to compensation earned
38 by a member retired for service under this part who has returned
39 to work after the date of retirement and, for a period of at least 12
40 consecutive months, has not performed the activities identified in

1 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision
2 (b), of Section 22119.5 as an employee of an employer, as an
3 employee of a third party, or as an independent contractor within
4 the California public school system.

5 (2) The postretirement compensation limitation provisions set
6 forth in this section are not applicable to compensation earned for
7 the performance of the activities described in subdivision (a) for
8 which the employer is not eligible to receive state apportionment
9 or to compensation that is not creditable pursuant to Section
10 22119.2.

11 (f) The limitation that shall apply to the compensation for
12 performance of the activities identified in paragraphs (1) to (9),
13 inclusive, of subdivision (a), or subdivision (b), of Section
14 22119.5 by a member retired for service under this part either as
15 an employee of an employer, an employee of a third party, or as an
16 independent contractor, shall, in any one school year, be an amount
17 calculated by the board each July 1 equal to twenty-two thousand
18 dollars (\$22,000) adjusted by the percentage change in the average
19 compensation earnable of active members of the Defined Benefit
20 Program, as determined by the system, from the 1998–99 fiscal
21 year to the fiscal year ending in the previous calendar year.

22 (g) If a member retired for service under this part earns
23 compensation for performing activities identified in paragraphs
24 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
25 Section 22119.5 in excess of the limitation specified in subdivision
26 (f), as an employee of an employer, as an employee of a third party,
27 or as an independent contractor, within the California public
28 school system, and if that compensation is not exempt from that
29 limitation under subdivision (e) or any other provisions of law, the
30 member's retirement allowance shall be reduced by the amount of
31 the excess compensation. The amount of the reduction may be
32 equal to the monthly allowance payable but shall not exceed the
33 amount of the annual allowance payable under this part for the
34 fiscal year in which the excess compensation was earned.

35 (h) The amendments to this section enacted during the 1995–96
36 Regular Session shall be deemed to have become operative on July
37 1, 1996.

38 (i) This section shall be repealed on January 1, 2008, unless
39 later enacted legislation extends or deletes that date.

SEC. 23. Section 24214 of the Education Code, as amended by Section 21 of Chapter 859 of the Statutes of 2003, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member may not make contributions to the retirement fund or accrue service credit based on compensation earned from that service.

(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part may not be required to reinstate for performing the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an

independent contractor, shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member’s retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on January 1, 2008.

SEC. 24. *Section 25000.9 of the Education Code is amended to read:*

25000.9. For purposes of this chapter and Section 23300, “nonmember spouse” means a member’s spouse or former spouse, *and also includes a member’s registered domestic partner or former registered domestic partner*, who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part. A nonmember spouse may not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation ~~or~~, dissolution of marriage, *or dissolution of domestic partnership*:

(a) A separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in

1 the member's retirement allowance under the Defined Benefit
2 Program.

3 (b) A separate account based on the member's Defined Benefit
4 Supplement account balance, a retirement benefit, or an interest in
5 the member's retirement benefit under the Defined Benefit
6 Supplement Program.

7 *SEC. 25.* Section 25100 of the Education Code is amended to
8 read:

9 25100. (a) The board shall establish a vendor registration
10 process through which information about tax-deferred retirement
11 investment products as described in Section 403(b) of the Internal
12 Revenue Code of 1986 shall be made available for consideration
13 by public employees of all local school districts, community
14 college districts, and county offices of education.

15 (b) For the purposes of this chapter, "403(b) product or 403(b)
16 products" means tax-deferred retirement investment products as
17 described in Section 403(b) of the Internal Revenue Code of 1986,
18 and its subsequent amendments, and complying with applicable
19 California insurance laws, and federal and California securities
20 laws and rules as applied by appropriate regulatory entities.

21 (c) For the purposes of this chapter, "vendor" means a public
22 retirement system, broker-dealer, registered investment company,
23 nonbank custodian, or life insurance company qualified to do
24 business in California that provides 403(b) products. "Vendor"
25 does not include individual registered representatives, brokers,
26 financial planners, or agents. "Nonbank custodian" means a fund
27 custodian, other than a bank, that meets the criteria of a trustee
28 specified in Section 408(a)(2) of the Internal Revenue Code.
29 "Broker-dealer" means only those broker-dealers who offer a
30 proprietary 403(b) product or who charge fees that are otherwise
31 not disclosed.

32 ~~SEC. 25.—~~

33 *SEC. 26.* Section 25107 of the Education Code is amended to
34 read:

35 25107. A vendor may not charge a fee associated with a
36 registered 403(b) product that is not disclosed, pursuant to Section
37 25101.

38 ~~SEC. 26.—Section 24221 of the Education Code is amended to~~
39 ~~read:~~

~~24221. (a) A member who retires for service prior to January 1, 2011, may elect, on a form prescribed by the system, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly allowance that would otherwise be payable to the member pursuant to this chapter. The election under this section shall be made at the time the member files his or her application for service retirement allowance as provided in Section 24204.~~

~~(b) A member who makes the election described in subdivision (a) shall receive a one-time, lump-sum payment in an amount that equals or does not exceed the lesser of the following amounts:~~

~~(1) The actuarial present value of the amount by which (A) the monthly unmodified allowance payable to the member pursuant to this chapter, exceeds (B) an amount equal to 2 percent of the member's final compensation multiplied by the number of years of credited service and divided by 12.~~

~~(2) Fifteen percent of the actuarial present value of the monthly unmodified allowance payable to the member under this chapter.~~

~~(c) Notwithstanding any other provision of this part, a member who makes the election described in subdivision (a) shall receive a monthly unmodified allowance, pursuant to this chapter, that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (b). The actuarially reduced unmodified allowance may be modified pursuant to Section 24300.~~

~~(d) A member may not apply a lump-sum payment made pursuant to this section for the purposes of redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200) or purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820) or Chapter 14.5 (commencing with Section 22850). The Legislature hereby finds and declares that if a member who elects to receive a partial lump-sum payment also elects to redeposit previously refunded contributions or purchase service credit as a result of the receipt of the lump-sum payment, the Defined Benefit Program may experience a net actuarial impact.~~

~~(e) An election pursuant to subdivision (a) may have no net actuarial impact to the Defined Benefit Program. The board shall adopt present value factors to establish a corresponding actuarially reduced monthly allowance that result in no net actuarial impact~~

1 to the Defined Benefit Program. The Legislature reserves the right
2 to modify the provisions of this section to further the objective of
3 permitting eligible members to receive a lump-sum distribution of
4 a portion of their benefits, with a corresponding actuarial
5 reduction in their monthly allowance, so that there is no net
6 actuarial impact to the Defined Benefit Program.

7 SEC. 27. Section 25000.9 of the Education Code is amended
8 to read:

9 25000.9. For purposes of this chapter and Section 23300,
10 “nonmember spouse” means a member’s spouse or former
11 spouse, and also includes a member’s registered domestic partner
12 or former registered domestic partner, who is being or has been
13 awarded a community property interest in the service credit,
14 accumulated retirement contributions, accumulated Defined
15 Benefit Supplement account balance, or benefits of the member
16 under this part. A nonmember spouse may not be considered a
17 member based upon his or her receipt of any of the following being
18 awarded to the nonmember spouse as a result of legal separation,
19 dissolution of marriage, or dissolution of domestic partnership:

20 (a) A separate account of service credit and accumulated
21 retirement contributions, a retirement allowance, or an interest in
22 the member’s retirement allowance under the Defined Benefit
23 Program.

24 (b) A separate account based on the member’s Defined Benefit
25 Supplement account balance, a retirement benefit, or an interest in
26 the member’s retirement benefit under the Defined Benefit
27 Supplement Program.

28 SEC. 28.—

29 SEC. 27. Section 26002.5 is added to the Education Code, to
30 read:

31 26002.5. Except as excluded in Sections 26004 and 27406,
32 any reference to a “spouse” in this part includes a person who is
33 the registered domestic partner of a member, as established
34 pursuant to Section 297 or 299.2 of the Family Code.

35 SEC. 29.—

36 SEC. 28. Section 26004 of the Education Code is amended to
37 read:

38 26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70¹/₂ years or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70¹/₂ years or the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified. This subdivision does not apply to the surviving domestic partner of a member, consistent with Section 402 of the Internal Revenue Code.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

~~SEC. 30.—~~

SEC. 29. Section 26140 of the Education Code is amended to read:

26140. (a) “Spouse” means the person married to the participant on the date the participant files a beneficiary designation, or an application for a benefit, or on the date of the participant’s death.

(b) Except as excluded in Sections 26004 and 27406, “spouse” also includes the person who is the registered domestic partner of the participant, as established pursuant to Section 297 or 299.2 of the Family Code, on the date the participant files a beneficiary designation or an application for a benefit, or on the date of the participant’s death.

~~SEC. 31.—~~

SEC. 30. Section 27400 of the Education Code is amended to read:

27400. (a) This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in benefits under this part and defines the rights of nonparticipant spouses in the Cash Balance Benefit Program.

(b) For purposes of this chapter, any reference to “dissolution of marriage or legal separation” also includes the termination or dissolution of a domestic partnership, nullity of a domestic partnership, or the legal separation of the partners in a domestic partnership, as provided in Section 299 of the Family Code.

~~SEC. 32.~~

SEC. 31. Section 27401 of the Education Code is amended to read:

27401. For purposes of this chapter, “nonparticipant spouse” means a participant’s spouse or former spouse, and also includes a participant’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the benefits determined by reference to the amounts credited to a participant’s employee and employer accounts or the participant’s annuity. A nonparticipant spouse who is awarded separate nominal accounts is not a participant in the Cash Balance Benefit Program. A nonparticipant spouse who receives or is awarded an interest in a participant’s annuity is not a participant in the Cash Balance Benefit Program.

~~SEC. 33.~~

SEC. 32. Section 27406 of the Education Code is amended to read:

27406. The nonparticipant spouse who is awarded separate nominal accounts with respect to the Cash Balance Benefit Program shall have the right to a lump-sum distribution of amounts credited to the account.

(a) The nonparticipant spouse shall file an application on a form provided by the system to obtain the distribution.

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file with the system.

(c) If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section

1 401(a)(31) of Title 26 of the United States Code to the trustee of
2 a qualified plan under Section 402 of Title 26 of the United States
3 Code, deposit in the United States mail of a notice that the
4 requested transfer has been made constitutes a distribution of the
5 nonparticipant spouse's credit balance from the separate nominal
6 accounts. This subdivision shall not apply to a nonparticipant
7 domestic partner, consistent with Section 402 of the Internal
8 Revenue Code.

9 (d) The nonparticipant spouse is deemed to have permanently
10 waived all rights to an annuity when the distribution becomes
11 effective.

12 (e) The nonparticipant spouse may not cancel a distribution
13 after the distribution is effective.

14 (f) The nonparticipant spouse shall have no right to elect to
15 redeposit the distribution after the distribution is effective.

16 ~~SEC. 34.—~~

17 *SEC. 33.* Section 44987 of the Education Code is amended to
18 read:

19 44987. (a) The governing board of a school district shall
20 grant to any employee, upon request, a leave of absence without
21 loss of compensation for the purpose of enabling the employee to
22 serve as an elected officer of any local school district public
23 employee organization, or any statewide or national public
24 employee organization with which the local organization is
25 affiliated.

26 The leave shall include, but is not limited to, absence for
27 purposes of attendance by the employee at periodic, stated,
28 special, or regular meetings of the body of the organization on
29 which the employee serves as an officer. Compensation during the
30 leave shall include retirement fund contributions required of the
31 school district as employer. The required employer contribution
32 rate shall be the rate adopted by the Teachers' Retirement Board
33 as a plan amendment with respect to the Defined Benefit Program
34 as provided in Section 22711. The employee shall earn full service
35 credit during the leave of absence and shall pay member
36 contributions as prescribed by Section 22711. The maximum
37 amount of the service credit earned may not exceed twelve
38 calendar years. Any employee who serves as a full-time officer of
39 a public employee organization is not eligible for disability

1 benefits under the State Teachers' Retirement Plan while on the
2 leave of absence.

3 Following the school district's payment of the employee for the
4 leave of absence, the school district shall be reimbursed by the
5 employee organization of which the employee is an elected officer
6 for all compensation paid the employee on account of the leave.
7 Reimbursement by the employee organization shall be made
8 within 10 days after its receipt of the school district's certification
9 of payment of compensation to the employee.

10 The leave of absence without loss of compensation provided for
11 by this section is in addition to the released time without loss of
12 compensation granted to representatives of an exclusive
13 representative by subdivision (c) of Section 3543.1 of the
14 Government Code.

15 For purposes of this section, "school district" also means
16 "county superintendent of schools."

17 (b) An employee who after August 31, 1978, was absent on
18 account of elected-officer service, shall receive full service credit
19 in the State Teachers' Retirement Plan; provided that, not later
20 than April 30, 1981: (1) the employee makes a written request to
21 the employer for a leave of absence for the period of the
22 elected-officer service, and (2) the employee organization of
23 which the employee is an elected officer pays to the employee's
24 school district an amount equal to the required State Teachers'
25 Retirement Plan member and employer retirement contributions,
26 as prescribed by this section.

27 The school district, following this written request and payment,
28 shall transmit the amount received to the State Teachers'
29 Retirement System, informing it of the period of the employee's
30 leave of absence. The State Teachers' Retirement System shall
31 credit the employee with all service credit earned for the period of
32 the elected-officer leave of absence.

33 If the employee has been compensated by the school district for
34 the period of the service, then, as a condition to the employee's
35 entitlement to service credit for this period, the school district shall
36 be reimbursed by the employee organization for the amount of the
37 compensation.

38 The provisions of this subdivision shall apply retroactively to all
39 service as an elective officer in a public employee organization
40 occurring after August 31, 1978.

1 ~~SEC. 35.~~—

2 *SEC. 34.* Any section of any act enacted by the Legislature
3 during the second year of the 2003–04 Regular Session that
4 amends, amends and renumbers, adds, repeals and adds, or repeals
5 a statute that is amended by this act shall prevail over this act,
6 whether that act is enacted prior or subsequent to the enactment of
7 this act.

O

